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July 28, 2004

## VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *Digital Output Protection Technology and Recording Method Certification;*  
*Windows Media Digital Rights Management Technology*, MB Docket No. 04-66  
*Ex Parte Communication*

Dear Ms. Dortch:

This letter responds to a request from the Commission's Media Bureau staff for clarifying information about the manner in which Microsoft's Windows Media Digital Rights Management (WMDRM) technology limits the redistribution, via Internet Protocol (IP)-based copying, of Broadcast Flag Marked Content. In reiterating this information, we respond as well to the July 22, 2004 *ex parte* letter of the MPAA concerning the scope of MPAA's support for the WMDRM technology in this proceeding. Although Microsoft agrees with MPAA's characterization of the scope of support MPAA expressed in the parties' July 9, 2004 joint *ex parte* letter, we disagree with MPAA's contention that Microsoft has provided insufficient detail concerning the redistribution controls that will apply to WMDRM implementations that enable IP-based copying of Marked Content.

Beginning with the initial WMDRM Certification and amplified in the Consolidated Response to Oppositions and subsequent *ex parte* filings,<sup>1</sup> Microsoft has described in detail the controls that will apply to the redistribution of Marked Content in the WMDRM system. The WMDRM implementations described in this proceeding, whether allowing only USB-connected or both USB-connected and IP-based copying, will limit the redistribution of Marked Content

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<sup>1</sup> See, e.g., Certification, MB Docket No. 04-66, at 8-9 (Mar. 1, 2004); Consolidated Response to Oppositions to Certification, MB Docket No. 04-66, at 3-6 & Ex. 1 (Apr. 16, 2004); Microsoft *Ex Parte* Letter, MB Docket No. 04-66, at 2-11 (May 18, 2004) (Microsoft May 18 *Ex Parte*); Microsoft *Ex Parte* Letter, MB Docket No. 04-66, at 1-2 (July 13, 2004) (Microsoft July 13 *Ex Parte*); Microsoft *Ex Parte* Notice, MB Docket No. 04-66, Attachments (July 15, 2004).

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using the same types of techniques. These techniques are reiterated below with emphasis on their application to IP-based copying:

- *Authentication:* The WMDRM implementation will authenticate both the application that will perform the transfer of Marked Content and the device to which the Marked Content will be transferred. That is, when a media storage device connected via an IP-based connection to a PC or device that originally tuned and demodulated Marked Content, the WMDRM implementation on the original receiving device will both (1) authenticate the application that will perform the content transfer to determine that the application is in possession of a valid Application Certificate that has not been revoked due to a compromise in the security of the application and (2) authenticate the device to which the Marked Content will be copied to determine that it is a trusted device whose Device Certificate has not been revoked due to a security compromise.
- *Authorization:* The WMDRM implementation will determine if the media storage device has been authorized to receive content from the PC from which the Marked Content will be transferred. This authorization must be affirmatively granted by the user of the PC the first time a newly-attached device requests content from the PC. Unless this authorization has been granted, Marked Content will not be copied to the storage device.
- *Proximity control:* When IP-based copying is enabled, the WMDRM implementation will not allow Marked Content to be copied to an authenticated, authorized device until the WMDRM implementation has confirmed that the connected device is sufficiently proximate to the PC from which the Marked Content will be transferred. Marked Content will only be copied if the Time to Live (TTL) between the PC and the media storage device is 3 or less and the Round Trip Time (RTT) between the PC and the media storage device is 7 milliseconds (ms) or less. (For WMDRM implementations that limit copying to USB-connected media storage devices, proximity is assured by the cable length limitations applicable to USB connections.)
- *Device count:* When IP-based copying is enabled, the WMDRM implementation will not copy Marked Content to an authenticated, authorized, proximate IP-connected device until it has confirmed that the maximum number of IP-connected devices to which content may be copied over a home network has not been exceeded. Although Microsoft has not, for good reasons explained in our July 13, 2004 *ex parte* letter, settled on the precise number of authenticated, authorized, proximate devices to which IP-based copying will be permitted, Microsoft has committed that the number will not exceed a maximum count calculated using Consumer Electronics Association survey information showing household penetration of video storage devices (or another higher number established by the FCC).<sup>2</sup> (For WMDRM implementations that limit copying to USB-

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<sup>2</sup> See Microsoft July 13 *Ex Parte*, at 2-3.

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connected devices, the number of devices that can receive content from the originating PC will not be limited by the WMDRM implementation, but will be limited as a practical matter by the requirement that storage devices must be physically connected to the originating PC.)

The information described above, which has already been provided in Microsoft submissions in this proceeding, makes clear that WMDRM will prevent the indiscriminate redistribution of Marked Content as required by the Commission's rules, whether or not IP-based copying is enabled.<sup>3</sup> Accordingly, the Commission should approve the full range of WMDRM technology submitted for approval in this proceeding. Contrary to MPAA's assertions, Microsoft should not be required to submit a new certification for a future version of WMDRM that simply implements incrementally the full functionality described to the Commission and submitted for approval in this proceeding.

Please address any questions to the undersigned.

Respectfully submitted,



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<sup>3</sup> Microsoft has provided a "detailed description of the controls" that will apply to the full implementation of WMDRM described in this proceeding, MPAA *Ex Parte* Letter, MB Docket No. 04-66, at 1 (July 22, 2004), and it is *only* the compliance rules governing IP-based copying that have not been submitted to the Commission because they are still in development. However, Microsoft has submitted the compliance rules that generally will apply to WMDRM, Microsoft May 18 *Ex Parte*, Exhibits; Microsoft *Ex Parte* Letter, MB Docket No. 04-66, Exhibits (June 25, 2004), and the Commission can readily anticipate how those rules might be modified to give effect to the limitations on IP-based copying described in Microsoft's prior submissions and reiterated above.

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